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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,290	07/16/2003	Massimo Iarussi	741014.1018	2473
21831	7590	12/09/2005	EXAMINER	
STEINBERG & RASKIN, P.C. 1140 AVENUE OF THE AMERICAS, 15th FLOOR NEW YORK, NY 10036-5803			CANFIELD, ROBERT	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 12/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/621,290	IARUSSI, MASSIMO
	Examiner Robert J. Canfield	Art Unit 3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 June 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,2 and 4-8 is/are rejected.
- 7) Claim(s) 3 and 5 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 17 July 2003 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

1. This Office action is in response to the amendment filed 06/2905. Claims 1-8 are pending.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 4, and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 2002/007576 to Gai.

Gai provides glass panel 7, filtering layer 1, 6, or 8, three parallel grooved seatings within the periphery of a metal frame and tubular light source 2 which will inherently direct light angularly onto glass 7.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 2,323,059 to Land.

Land provides a wall closure element which is considered to meet the limitation of a door or window having a glass panel 22 with light filtering layer 20 and or 21, a generally C-shaped seating 32 spaced apart from the glass and holding a tubular light source 30 which directed angular onto the glass 22.

5. Claims 1, 2, 4, 6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,295,221 to Roslan.

Roslan provides aluminum frame 32 having a groove at approximately 34 for accommodating glass panel 36, which has a filtering layer thereon. Spaced apart therefrom is another groove holding a C-shaped seating formed by layer 48. A tubular light source 46 is provided therein which inherently will angularly direct light onto glass 36.

6. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Des. 363,997 to Nomura.

Figure 9 provides a framing member having three parallel grooved seatings. It would have been obvious at the time of the invention to one having ordinary skill in the art that the framing member of Nomura could have been from metal as metal is a well known material used in the framing arts for extruded shapes. It would have been an obvious material choice for its ease in being extruded into the cross section shown and for its inherent material properties such as strength. Recitations of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

7. Claims 3 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Applicant's arguments filed 06/29/05 have been fully considered but they are not fully persuasive.

Applicant argues that the seating for the light in Gai is not spaced apart from the plane in which the glass panel lies. This is not found persuasive because the examiner has now relied upon glass panel 7 as the glass panel, which meets the claim. This glass panel is clearly shown in a plane spaced apart from the light. The light will inherently hit the glass at an angle. The argument that the device of Gai is related to a lighted sign is not germane to an anticipatory rejection where the prior art reference provides each of the claimed elements.

Applicant's arguments with respect to Nomura are not found persuasive. The language "for engaging an edge of glass panel...", "for accommodating a tubular light source", and "for receiving edges of a movable curtain" only provided an intended use which the grooves of Nomura are quite capable of performing.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Canfield whose telephone number is 571-272-6840. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert J Canfield
Primary Examiner
Art Unit 3635



12/06/05